

# EXHIBIT 67

AVELLINO, FRANK  
A435.001 DEPOSITION OF MICHAEL BIENES – 9/10/1  
P&S v. Avellino et al

Michael Bienes

IN THE CIRCUIT COURT OF THE SEVENTEENTH JUDICIAL CIRCUIT  
IN AND FOR BROWARD COUNTY, FLORIDA  
CASE No.12-034123(07)

P&S ASSOCIATES, GENERAL PARTNERSHIP,  
a Florida limited partnership, et al.,

Plaintiffs,

-vs-

MICHAEL D. SULLIVAN, et al.,

Defendants.

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DEPOSITION OF MICHAEL BIENES  
VIDEOTAPED

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PAGES 1 - 83

Thursday, September 10, 2015  
10:03 a.m. - 12:08 p.m.

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Reported By:  
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Michael Bienes

	Page 2	Page 4
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	BRIAN TERRINONI - VIDEOGRAPHER	2
	PHIL VON KAHL	3
	FRANK AVELLINO	4
	INDEX	5
	WITNESS: DIRECT CROSS REDIRECT RECROSS	6
	MICHAEL BIENES	7
	BY MR. SAMUELS 5	8
	EXHIBITS	9
	NUMBER DESCRIPTION PAGE	10
	PLAINTIFFS' EX. 29 LIST OF MEDICATIONS 7	11
	PLAINTIFFS' EX. 30 FINAL JUDGMENT 29	12
	PLAINTIFFS' EX. 31 11/21/1996 LETTER 41	13
	PLAINTIFFS' EX. 32 12/27/1992 LETTER 52	14
	PLAINTIFFS' EX. 33 NOTICE OF SERVING 72	15
	OBJECTIONS AND ANSWERS TO	16
	INTERROGATORIES	17
	PLAINTIFFS' EX. 34 NOTICE OF SERVING 75	18
	OBJECTIONS AND ANSWERS TO	19
	INTERROGATORIES	20
	MR. SAMUELS: Leonard Samuels of Berger	21
	Singerman, LLP, 350 East Las Olas Boulevard, Suite	22
	1000, Fort Lauderdale, Florida 33301. The court	23
	reporter is Gabby Cardarelli and the videographer	24
	is Brian Terrinoni. Will counsel please identify	25
	themselves for the record.	
	MR. ETRA: Leonard Samuels of Berger	
	Singerman on behalf of the plaintiffs, S&P, P&S and	
	Phil Von Kahl. With me is Steve Weber, Tom	
	Zeichman and Phil Von Kahl.	
	MR. ETRA: Jonathan Etra of Broad and Cassel,	
	on behalf of M. Bienes.	

2 (Pages 2 to 5)  
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Michael Bienes

Page 94		Page 96	
1	happened?	1	MR. WOODFIELD: The HG?
2	A I vaguely recollect he was, yes.	2	MR. WEBER: That one, yeah. HG, that would
3	Q Okay. And you said there was a second stage,	3	have been produced with our production, either E13.
4	where you were elevated. Was Father Kelly with you	4	MR. WOODFIELD: Like Friday dump?
5	then?	5	MR. WEBER: No, not like Friday dump. On
6	A I vaguely recollect he was.	6	August 13th.
7	Q Okay. And you said there was a third stage,	7	MR. SAMUELS: We'll get back to -- we'll get
8	when you got a star?	8	back to you on it. How's that?
9	A Con placia.	9	MR. WOODFIELD: Fine.
10	Q A con placia. Was Father Kelly with you then?	10	BY MR. SAMUELS:
11	A I vaguely recollect he was, yes.	11	Q Okay. Have you had a chance to look at this
12	Q And during this entire process, is it fair to	12	exhibit?
13	say that Father Vincent Kelly is your spiritual adviser?	13	A Yes, sir.
14	A That would be a fair statement.	14	Q Okay. So this indicates that Father Kelly
15	Q Okay. And did anything of this involve going	15	called to say there's a new group doing something, the
16	to the Vatican?	16	same as Avellino & Bienes. Was Father Kelly a direct or
17	A No.	17	indirect investor in Avellino & Bienes?
18	Q Have you ever been received -- have you ever	18	A I believe he may have been.
19	been to the Vatican?	19	Q You're not sure?
20	A Years ago, outside as a tourist.	20	A I am not sure.
21	Q Okay. You were never -- you've never been	21	Q Okay. So he goes on to say, "there's a new
22	received at the Vatican as a guest, in light of your	22	group doing something the same as A & Bienes. They work
23	being knighted?	23	through Madoff investing people." Do you see that?
24	A No.	24	A Yes.
25	Q Okay.	25	Q "And two new people are taking over what is
Page 95		Page 97	
1	MR. SAMUELS: What number are we on?	1	called a limited partnership. Sullivan and Powell. The
2	COURT REPORTER: Thirty-five.	2	two are Michael Sullivan and Greg Powell." Do you see
3	MR. SAMUELS: We'll mark this as Exhibit 35.	3	that?
4	(Plaintiffs' Exhibit No. 35 was marked for	4	A Yes.
5	identification.)	5	Q Okay. Then it says: "Father Kelly said he is
6	BY MR. SAMUELS:	6	going to use Sullivan and Powell, himself." You got
7	Q Okay. I want to show you what's been marked	7	that?
8	as Exhibit 35. And the first thing I want to ask you	8	A Yes.
9	is, do you know who Mike McCarthy is?	9	Q In the letter? Okay.
10	A No.	10	So he's talking about a new group. So your
11	Q Okay. Mr. McCarthy writes a letter saying	11	understanding that the new group, working through Madoff
12	that last night, Father Vincent Kelly called to say that	12	and investing people, that the new group, Sullivan and
13	there's a new group doing the same thing --	13	Powell, was in essence, taking the place of the old
14	MR. ETRA: The witness is reading the letter.	14	group, Avellino & Bienes, in terms of enabling people to
15	Could you just let -- give him a minute --	15	invest in Madoff?
16	MR. SAMUELS: That's fine.	16	MR. ETRA: Objection to form.
17	MR. ETRA: -- to finish.	17	THE WITNESS: I have no such understanding.
18	MR. SAMUELS: Yeah, that's no problem.	18	BY MR. SAMUELS:
19	MR. ETRA: Thank you.	19	Q Okay. So we now have Father Kelly saying he's
20	MR. WOODFIELD: Again, is this a document	20	going to use Sullivan and Powell. Are you the person
21	that's been previously produced?	21	that, given your relationship with Father Kelly, as well
22	MR. SAMUELS: First of all, I'm sorry I did	22	as your relationship with Madoff, are you the person
23	not check during the break on the last one, like I	23	that recommended to Father Kelly that he invest with
24	mentioned I would. So I owe you a check on that	24	Michael Sullivan or one of his entities?
25	one and this one.	25	A Not to my recollection.

4 (Pages 94 to 97)  
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954 241 1010

Michael Bienes

Page 174		Page 176	
1	A Relatively speaking, maybe, yes.	1	was: "When did you get into investing other people's
2	Q Okay. Okay. So let's turn now -- these pages	2	money with Bernie Madoff?"
3	do have Bates numbers on them. They're pretty small,	3	You said, "Saul, his father-in-law, had been
4	unfortunately.	4	doing it since the late '60s, I think, if not before."
5	MR. WOODFIELD: Are -- are these -- that's not	5	Is that your recollection in terms of when
6	a familiar Bates stamp.	6	Saul -- you were aware of Saul starting to invest in
7	MR. SAMUELS: AVE0 --	7	Bernie?
8	MR. WEBER: It's the Bates stamp.	8	A Yes.
9	MR. SAMUELS: -- 2917. It's early -- it's	9	Q Okay. Then the question is: "And the guy had
10	one -- if you flip the page, it's one -- to the	10	a hot hand?"
11	back of the second page.	11	And you say, "You see, what Bernie said -- he
12	MR. WOODFIELD: I don't have a back. We only	12	took a few straight accounts from Saul's people in the
13	have the even-numbered pages. We don't have the	13	beginning, and then he said to his father-in-law: 'No,
14	backs.	14	I cannot handle small accounts like this. This is a
15	MR. ETRA: You don't have copies?	15	pain in the neck and a pain in the butt."
16	MR. WEBER: This one has the backs. Are you	16	"So Saul, being smart, said: 'Look, open up
17	sure?	17	an account called A&A and I'll do the record keeping.
18	MR. WOODFIELD: Yeah.	18	I'll handle the checks. I'll do it all.'
19	MR. SAMUELS: He's got front and backs.	19	"Yeah, he gave Frank a piece and I got a piece
20	MR. ETRA: I have a back.	20	when I became a partner. It became like a client of the
21	MR. WOODFIELD: Thanks.	21	firm. It's was only about \$2 million and-a-half, \$2.5
22	MR. SAMUELS: Okay.	22	million in the account. That was big money to me. And
23	BY MR. SAMUELS:	23	we made a little bit off the top or backs. A business
24	Q Okay. Here I'm just going to quote you and	24	in millions, a profit in pennies; it's true.
25	just ask you if this is true, okay? This is talking	25	"So he would do this, and then when he
Page 175		Page 177	
1	about Saul Alpern. It says: "One of the first things	1	retired, he says: 'In taking the green book down to
2	Saul Alpern said to me when I went to work for him was:	2	Florida. It'll give me work to do and I'll mail stuff'
3	'Listen, yeah, listen. You got money, you can invest it	3	up to Nanette, and she'll type up the checks to send
4	with my son-in-law Bernie. You'll get 20 percent."	4	out." Do you recall that?
5	All right. You mentioned that on TV. Do you	5	A Yes, I do.
6	recall that being one of the first things that Saul	6	Q Okay. So now, we're talking about -- if you
7	Alpern said to you?	7	go down, "What was the major business at the time, in
8	A Yes, I do.	8	'70, still accounting"
9	Q Okay. I'm now on page 02919. And I'm just	9	"We were accountants. Oh, yeah."
10	going to talk to you about some things that you said and	10	"How much of your business at that time was
11	ask if it's truthful or not, okay?	11	investing with Bernie?"
12	(Discussion held off the record.)	12	"Oh, maybe ten percent, at most. I can't
13	BY MR. SAMUELS:	13	remember."
14	Q "What my partner Frank told me -- because	14	So you recall that, in 1970, about ten percent
15	Frank started with the firm in 1958. He went directly	15	of your business was investing in Bernie Madoff?
16	from college to Alpern & Heller. He was a fixture	16	A Would that be right? I was guessing.
17	there. He was the key employee.	17	Q Okay. Approximately -- is that an
18	He said he remembered Bernie coming in in '59	18	approximation?
19	and '60, and using part of a desk in their office on	19	A I don't know I was guessing.
20	42nd Street, and working a phone line he had put in."	20	Q Okay.
21	Is that truthful?	21	A I could be wrong. I wanted to give him an
22	A Yeah.	22	answer.
23	Q Okay.	23	Q Okay. So on the bottom of page 23, you're
24	A Yes, it is.	24	saying: "Oh, yes. Oh, yes, it did. We knew that and
25	Q All right. I'm now on page 21. The question	25	we always said there's not a corporation in the carload.

24 (Pages 174 to 177)  
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Michael Bienes

Page 178	Page 180
<p>1 It's always us as GPs.      2 "We didn't create one of those partnerships --      3 you know, and the trick is who's a general partner? A      4 shell corporation is a general partner. Who owns the      5 shell? The boys. We never did that. There was no      6 corporation. We always stood behind it. That's how      7 much we believed in Bernie.      8 "So you were promising people how much?"      9 And you said, "All depends. Big amounts,      10 18 percent; smaller amounts, 17, 16, even as low as 15."      11 Do you see that?      12 A I'm on page --      13 Q Now, I'm over on page 24.      14 A Oh, okay. Wait a minute. Yeah, I see that.      15 Q So you recall promising people 18 percent;      16 smaller amounts, 17, 16, or even as low as 15?      17 A Uh-huh. Yeah.      18 Q Okay. And then on page 25, it says: "At the      19 time, were you the only people that you were aware of      20 that were feeding Bernie Madoff money?"      21 And you said, "Yes. Yes."      22 "In the '70s?      23 "Yes. Yes. We thought we were the only      24 ones." Do you see that?      25 A Yes, sir.</p>	<p>1 comply by the rules      2 Q Okay. So now, on page 28 at the bottom, it      3 says: "So it was all Madoff starting in the '80s?"      4 And you say, "83."      5 A Yes.      6 Q "All Madoff, because they forced us out of the      7 accounting business. Not that I care. Don't cry for      8 me. I hate it. I hated it."      9 So by --      10 MR. ETRA: I'm sorry. What page? I      11 apologize. What page?      12 MR. WOODFIELD: Twenty-eight.      13 MR. SAMUELS: Twenty-eight.      14 BY MR. SAMUELS:      15 Q So by -- on or about by 1983, your entire      16 business was investing in Madoff?      17 A After we closed -- after we closed the      18 accounting practice in '83, I believe Madoff was all      19 that was left. We couldn't get insurance to do anything      20 else.      21 Q Okay. Let's now go to 31. Now, you're      22 talking about Mr. Avellino. "Yeah, I refer to him as      23 'my partner.' I could just as easily say 'my brother.'      24 That's the feeling, but we're not technically partners      25 anymore.</p>
<p style="text-align: center;">Page 179</p> <p>1 Q So, does that refresh your recollection that      2 you were the only ones trading money into Bernie Madoff      3 in the '70s?      4 MR. ETRA: Objection.      5 THE WITNESS: It doesn't have to refresh my      6 recollection. It's what I thought.      7 BY MR. SAMUELS:      8 Q Okay. Very good.      9 So let's go now to page 26. "Why did you need      10 to know? I mean, it's money."      11 You say, "No. No. No. It's not the money;      12 it's people. I don't want bad people. I don't want      13 people we don't know. I don't want people who shouldn't      14 be giving us money."      15 Do you see that?      16 A Yes.      17 Q So you were careful in terms of who you were      18 taking money from, right?      19 A I would say so.      20 Q Why is that?      21 A Obvious reasons. Are you not careful who      22 you're taking as clients?      23 Q I'm asking you. It's a deposition.      24 A Because we're running a financial service, and      25 we didn't want people who were not going to be solid and</p>	<p style="text-align: center;">Page 181</p> <p>1 "What's the nature of your contacts with      2 Bernie?      3 "Meetings at his office. He never came to      4 ours. The only socializing we ever did with him was he      5 invited us to one of his son's bar mitzvahs, because his      6 father-in-law was there and we were still in practice      7 with him, so he had to invite us."      8 So you had meetings at Mr. Madoff's office?      9 A When -- when we met with him.      10 Q Do you recall other meetings that we have not      11 yet discussed today?      12 A I do not.      13 Q Okay. Now, let's go to page 33. Third      14 paragraph, you say, "From day to day, week to week, and      15 month to month, we would see the buys and the sells and      16 the profits and the few losses and how it was coming."      17 So we're not flying blind because, to be more exact, we      18 had it pinpointed every day when the transactions came      19 in. Oh, my heavens. Of course."      20 "And at the end of the month those      21 transactions were on a monthly statement and you just      22 analyzed that out and you tied it in. You balanced it      23 out. This was regular accounting work. You reconciled      24 the accounts. So that, we did.      25 "Oh, my. No. You just didn't put money in</p>

25 (Pages 178 to 181)  
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Michael Bienes

Page 190		Page 192	
1	"She says, 'Oh.'	1	BY MR. SAMUEL:
2	"I said, 'What are you looking to invest?	2	Q Did you ever at any time become aware of
3	"She says, 'well, I have 20 million.'	3	whether or not Acker invested in S&P or P&S or Sullivan?
4	"I said, 'Are you out of your mind? Are you	4	A I never was.
5	out of your total head? If you want to go with anybody,	5	Q Okay. Now we're asking questions about -- now
6	you open very small. You open modestly. I mean, tiny.	6	I want to go back to your interview about Grosvenor.
7	You don't buy the whole pie.' I didn't take her over	7	A Grosvenor.
8	there."	8	Q Grosvenor. Silent S.
9	Who was that person you were referring to?	9	A Correct.
10	A Her last name was Acker, A-C-K-E-R.	10	Q Page 52: "When we went back with Madoff in
11	Q And do you know if Acker ever invested with	11	'93, went back in an account, partnership account, my
12	Sullivan?	12	partner and I and the wives, of course."
13	A I have no idea.	13	"Bernie said, 'I'll let you back in, but I
14	Q And did you contact Sullivan about Acker?	14	don't want to see your name on the books.' So we had to
15	A Absolutely not.	15	make up a name, Grosvenor."
16	Q And the question then goes on: "So you were	16	Did Bernie say to you that he didn't want your
17	telling her to be careful with Sullivan?"	17	name on the books?
18	And you say, "Yes, very careful. But she	18	A Me, personally?
19	brought it up. She came to my door and rang the bell."	19	Q Uh-huh.
20	"Why were you telling her to be very careful	20	A Not that I can recollect.
21	with Sullivan?"	21	Q How do you know that Bernie said that he'd let
22	A She said 20 million-dollars. She's a lunatic,	22	you in, as long as your name wasn't on his books?
23	okay? I don't want to get involved with her because	23	A I think Frank may have told me.
24	she's offbeat, so is her crazy husband.	24	Q Do you recall discussing that with anybody at
25	Q And what's her husband's name?	25	Bernie Madoff's operation?
Page 191		Page 193	
1	A Harry.	1	A I discussed nothing at Bernie Madoff's
2	Q Okay.	2	operation.
3	A Two nuts. They really were. She mentioned	3	Q Then on page 54 -- on page 54, where it says,
4	Sullivan. I didn't. I just responded, and I was on my	4	"How many companies are we talking about, here?
5	way out the door.	5	It says: "Three: Grosvenor, Mayfair Ventures
6	Q And do you know if -- if there were management	6	and Mayfair Bookkeeping -- or Mayfair Pension Plan.
7	fees indicated on the books and records of S&P or P&S or	7	Those are the three accounts with Madoff."
8	any Sullivan entity, showing you getting a management	8	Is that correct, that those are the three
9	fee for Acker?	9	accounts involved with Madoff?
10	A I am not so aware.	10	A That's what I knew I was involved in.
11	Q Okay. Can you turn to Exhibit 36, the last	11	Q Okay. Do you know why Madoff didn't want your
12	page. Do you see that?	12	names on the books?
13	A Yes.	13	A No.
14	Q What is -- what are both of their names,	14	Q Did you ever discuss with Frank Avellino why
15	Acker?	15	Madoff didn't want your names on the books?
16	A Harry, and I knew her as A.J.	16	A No.
17	Q A.J., so -- is that the A. Acker?	17	Q Now, let's go to page 57. Why didn't you
18	A Could be.	18	discuss with Mr. Avellino why you couldn't have your
19	Q Okay. And did you ever come to learn that you	19	names on the books?
20	were receiving commissions or management fees or monies	20	A I didn't think it was important.
21	paid to charities that you were involved with, as a	21	Q Okay. Actually, on page 52, going back to 52,
22	result of Acker's investment in --	22	I'll just read it to you. It says: "So why doesn't
23	MR. ETRA: Objection.	23	Bernie want your name -- see your name?"
24	THE WITNESS: No, absolutely not.	24	And you said, 'I don't ask him. Oh, because
25		25	we screwed up. We were to blame. We were to blame."